

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

SCANSOFT, INC.,

Plaintiff

-VS-

VOICE SIGNAL TECHNOLOGIES, INC.,
LAURENCE S. GILLICK, ROBERT S. ROTH,
JONATHAN P. YAMRON, and
MANFRED G. GRABHERR,

Defendants

CA No. 04-10353-PBS
Pages 1 - 102

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JUN 23 2005

BROMBERG & SUNSTEIN

MARKMAN HEARING

BEFORE THE HONORABLE PATTI B. SARIS
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

LEE C. BROMBERG, ESQ., ERIK PAUL BELT, ESQ.,
and LISA M. FLEMING, ESQ., Bromberg & Sunstein,
125 Summer Street, Boston, Massachusetts, 02110-1618,
for the Plaintiff.

ROBERT S. FRANK, JR., ESQ., PAUL D. POPEO, ESQ.,
and SARAH CHAPIN COLUMBIA, ESQ., Choate, Hall & Stewart,
53 State Street, Boston, Massachusetts, 02109,
for the Defendants.

United States District Court
1 Courthouse Way, Courtroom 19
Boston, Massachusetts
June 17, 2005, 2:10 p.m.

LEE A. MARZILLI
CERTIFIED REALTIME REPORTER
United States District Court
1 Courthouse Way, Room 3205
Boston, MA 02210
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1 either. He needs to be able to have someone interpret them.

2 MR. BROMBERG: You're absolutely right, your Honor.

3 MR. FRANK: If I may, your Honor.

4 THE COURT: Yes.

5 MR. FRANK: What we would propose is that it's fine
6 with us if the two experts get together and select a neutral
7 expert so that there's as little partisanship in that as
8 possible. The second thing that we would be prepared to do
9 is to have the plaintiffs provide whatever code they think
10 was copied, may have been copied by our side. And the expert
11 can look at the code that we have produced, and if that
12 expert finds in there the, you know, copying or the use of
13 the core idea and thinks it's genuinely a secret -- that is,
14 that the idea in question is not generally known -- that
15 seems to us to be a fair way to go forward. We're concerned
16 about the misuse of this material, and we believe that
17 there's substantial --

18 THE COURT: I understand. This is what I'm going
19 to do. I think, if there's a concern about the partisan
20 experts, pick a third name. Have the person --
21 Mr. Bromberg's firm will have to explain what the theory of
22 the trade secrets are to him so that he'll know or she will
23 know what to look for, and then at some point you can either
24 sit down in a mutual meeting where the expert explains what
25 he has or has not found with all of you sitting there. We

1 can do it by means of deposition, and you'll both pay the
2 person.

3 MR. FRANK: Fine.

4 MR. BROMBERG: Your Honor, we --

5 THE COURT: And the counsel will be there, and
6 counsel will be able to talk to this expert, and this expert
7 will walk through those documents, because I can't do it.
8 And so maybe by within a week someone can come up with
9 another name, and we'll just see if the person is willing to
10 do it. Whatever the big bucks are, you'll divvy them up
11 between everybody, and we'll just get this off the dime.

12 MR. BROMBERG: Your Honor, my only concern is that
13 we already have retained an expert, and actually we have a
14 different expert who is also here, Mr. Goldhor, for the --
15 you know, he's an expert in speech recognition software,
16 so --


17 THE COURT: Maybe he'll be mutually agreeable, but
18 if he isn't mutually agreeable, then there have got to be
19 other people out there that both can walk through it and
20 decide. And exactly the same person will be used for
21 whatever documents that you provide to them, and that way the
22 person is hopefully going to be neutral, you know, with
23 respect to stock interests and consulting agreements,
24 et cetera, with respect to both sides, and he'll be our
25 court-appointed expert to walk through the trade secret and

C E R T I F I C A T E

UNITED STATES DISTRICT COURT)
DISTRICT OF MASSACHUSETTS) ss.
CITY OF BOSTON)

I, Lee A. Marzilli, Official Federal Court
Reporter, do hereby certify that the foregoing transcript,
Pages 1 through 102 inclusive, was recorded by me
stenographically at the time and place aforesaid in Civil
Action No. 04-10353-PBS, ScanSoft, Inc. Vs. Voice Signal
Technologies, Inc., et al, and thereafter by me reduced to
typewriting and is a true and accurate record of the
proceedings.

In witness whereof I have hereunto set my hand this
22nd day of June, 2005.


LEE A. MARZILLI, CRR
OFFICIAL FEDERAL COURT REPORTER